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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,110	07/11/2001	Arnaud Farizon	RCA 89215	7964
7590	03/09/2004		EXAMINER	
Joseph S Tripoli Thomson Multimedia Licensing Inc PO Box 5312 Princeton, NJ 08540			MACCHIAROLO, PETER J	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/889,110	FARIZON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Peter J Macchiarolo	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 January 2004.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 01/30/2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. The reply filed on 01/30/2004 consists of changes to the specification, drawings, and to the claims, and further, the reply consists of remarks related to the prior rejection of claims in the previous Office Action. The above have been entered and considered. However, pending claims 1-3 are not allowable as explained below.

### ***Drawings***

2. The amended drawings filed on 01/30/2004 have been entered and considered. However, the drawings are objected to because of the following informalities:

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 52' A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over previously cited Pohle (USPN 2,582,454; "Pohle") in view of previously cited Van Eck (USPN 5,861,708; "Van Eck").**

5. In regards to claims 1-3, Pohle discloses in figures 1-3, an electron gun comprising at least one cathode (18, 19, 20) for emitting an electron beam; a dish-shaped control electrode comprising a planar part (12) and at least one aperture (16) and a skirt (11) which at least partially surrounds the cathode, a means for supporting the cathode (22, 24) so as to keep the cathode at a specified distance from the control electrode is secured to the skirt, wherein the control electrode comprises at least three separate metal components (12, 11, 11), the substantially planar part of the control electrode having a center portion drilled with the at least one aperture which is intended to face each cathode and two end portions (13), and the center portion is connected to each of the two end portions through a curved portion (17). Pohle further discloses that the skirt at least partially surrounds the cathode, but the Examiner notes that it is difficult to ascertain from the figures if the skirt comprises at least two components. However, Pohle does disclose this configuration in claim 5, "a control electrode comprising two semi-cylindrical sections [11, 11] joined along the sides thereof to form a hollow cylinder, and a flat, apertured plate [12] attached to one end of said cylinder." Further, the two metal components each have peripheries (14) extending outward from the cathode. Further, Pohle discloses<sup>1</sup> that the invention is intended for use in a cathode ray tube.

6. Pohle is silent to the outer surface of one end of the two components faces the inner surface of the end of the other of the two components.

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<sup>1</sup> Pohle, col. 1, ll. 1-4.

7. However, Van Eck shows this configuration in figure 6, and teaches this configuration alleviates problems with high-voltage sensitivity, and accuracy<sup>2</sup>. One would be motivated to use Van Eck's configuration on Pohle's device for a variety of reasons, including material availability, meeting market demand for specific requirements, and to obtain the advantages as taught by Van Eck.

8. Therefore, in view of the above discussion, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct Pohle's device with the outer surface of one end of the two components faces the inner surface of the end of the other of the two components.

9. The Examiner notes that claim 1 contains numerous intended use type limitations, e.g., "for the passage of the electron beam emanating from the cathode", and "for attaching to the end portion of the substantially planar part." A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

#### ***Response to Arguments***

10. Applicant's arguments with respect to claim have been considered but are moot in view of the new ground(s) of rejection.

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<sup>2</sup> Van Eck, col. 1, ll. 26-36.

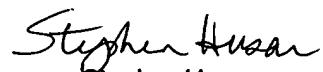
***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
12. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J Macchiarolo whose telephone number is (571) 272-2375. The examiner can normally be reached on 8:00 - 4:30, M-F.
14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

pjm

  
Stephen Husar  
Primary Examiner